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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,866	01/21/2005	Robert Scholl	DE 020183	1248

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EXAMINER

PAYNE, SHARON E

ART UNIT	PAPER NUMBER
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2875

MAIL DATE	DELIVERY MODE
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08/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/521,866

Applicant(s)

SCHOLL, ROBERT

Examiner

Sharon E. Payne

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 20007134 U1 (hereinafter "Treuhand") in view of Imamura et al. (U.S. Patent 4,665,341) and JP 07235624 A (hereinafter "Toyoda").

Regarding claim 1, Treuhand discloses a gas-discharge lamp (reference number 6), and LED (reference number 10) and an optical component for additive mixing of the light from the gas-discharge lamp and the LED (reference number 7), the lamp and the LED arranged in a housing so as to achieve additive mixing of the light by the optical component (abstract). Treuhand does not disclose a gas-discharge lamp with a color point in the green-blue or an LED with a color point in the yellow-red.

Imamura et al. discloses a gas-discharge lamp with a color point in the green-blue (column 4, lines 35-65).

Toyoda discloses an LED with a color point in the yellow-red (English abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the lamp of Imamura et al. in the apparatus of Treuhand to produce the desired color effects. See the abstract of Imamura.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the LED of Toyoda in the apparatus of Treuhand to provide the desired color effects.

Concerning claim 2, Treuhand discloses a fluorescent lamp (reference number 6).

Concerning claim 4, Treuhand does not disclose and AlGaAs red LED. Toyoda discloses an inorganic LED, in particular a red-emitting ALGaAS LED (English abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the LED of Toyoda in the apparatus of Treuhand and Imamura et al. to provide the desired color effects.

Regarding claim 8, Treuhand discloses the step of additive mixing of the light from the gas-discharge lamp and the LED by means of an optical component (reference number 7). Truehand does not disclose a gas-discharge lamp or an LED with the claimed colors.

Imamura et al. discloses the step of generating light with a color point in the green blue by means of a gas-discharge lamp (column 4, lines 35-45).

Toyoda discloses the step of generating a light with a color point in the yellow-red by means of an LED (English abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the lamp of Imamura et al. in the apparatus of Treuhand to produce the desired color effects.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the LED of Toyoda in the apparatus of Treuhand to provide the desired color effects.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Truehand in view of Imamura et al. and Toyoda as applied to claim 2 above, and further in view of Van Kemenade et al. (U.S. Patent 4,727,283).

Regarding claim 3, Treuhand does not disclose a low-pressure mercury vapour discharge lamp with BAM or CAT. Imamura et al. discloses the fluorescent lamp as a lamp on which in particular the phosphor BAM is applied for the generation of the blue light and/or the phosphor CAT is applied for the generation of green light (column 4, line 40). Treuhand, Imamura et al. and Toyoda do not disclose a low-pressure mercury vapour discharge lamp. Van Kemenade et al. discloses a low-pressure mercury vapour discharge lamp (abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the lamp of Imamura et al. in the apparatus of Treuhand and Toyoda to produce the desired color effects.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Van Kemenade et al. in the apparatus of Treuhand, Toyoda and Imamura to achieve low color temperatures. See the abstract of Van Kemenade.

4. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Treuhand in view of Imamura et al. and Toyoda as applied to claim 1 above, and further in view of Ohishi et al. (U.S. Patent 2001/0005319 A1).

Regarding claim 5, Treuhand, Imamura et al. and Toyoda do not disclose a control component. Ohishi et al. discloses a control component for controlling the color point of the lamp system (abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the control component of Ohishi et al. in the apparatus of Treuhand, Imamura et al. and Toyoda to enable one to vary the color output. See the abstract of Ohishi et al.

Concerning claim 6, Treuhand, Imamura et al. and Toyoda do not disclose a control component. Ohishi et al. discloses a control component that is designed to control the color point of the lamp system by controlling the power of the LED (abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the control component of Ohishi et al. in the apparatus of Treuhand, Imamura et al. and Toyoda to enable one to vary the color output. See the abstract of Ohishi et al.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Treuhand in view of Imamura et al., Toyoda and Ohishi et al. as applied to claim 5 above, and further in view of Callahan (U.S. Patent 4,894,760).

Regarding claim 7, Treuhand, Imamura et al., Toyoda and Ohishi et al. do not disclose a control component for the optical component. Callahan discloses a control

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component that is designed to control the color point of the lamp system by controlling the mixing characteristics of the optical component (abstract, Fig. 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Callahan in the apparatus of Treuhand, Imamura et al., Toyoda and Ohishi et al. to produce the desired optical effects. See the abstract of Callahan.

Claims 9, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toyoda in view of Zwald et al. (U.S. Patent 4,785,384).

Regarding claim 9, Toyoda discloses an LED with a color point in the yellow-red (English abstract). Toyoda does not disclose an optical component or a gas-discharge lamp. Zwald et al. discloses an optical component for additive mixing of light from a light source (cover, abstract), and a gas-discharge lamp (fluorescent lamp, abstract) with a color point in the green blue (abstract and column 5 in lines 40-53).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Zwald et al. in the apparatus of Toyoda to produce the desired color of light. See column 5, lines 40-53, of Zwald et al.

Concerning claim 10, Toyoda does not disclose a fluorescent lamp. Zwald et al. discloses a fluorescent lamp (abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Zwald et al. in the apparatus of Toyoda to produce the desired color of light. See column 5, lines 40-53, of Zwald et al.

Regarding claim 12, Toyoda discloses a red-emitting AlGaAs LED (English abstract).

Claims 13, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toyoda and Zwald et al. as applied to claim 9 above, and further in view of Imamura et al. (U.S. Patent 4,665,341).

Regarding claim 13, Toyoda and Zwald et al. do not disclose a control component. Imamura et al. discloses a control component for controlling the color point of the lamp system (abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Imamura et al. in the apparatus of Toyoda and Zwald et al. to control the color of the emitted light. See the abstract of Imamura et al.

Concerning claim 14, Toyoda and Zwald et al. does not disclose a control component. Imamura et al. discloses the control component being designed to control the color point of the lamp system by controlling power of the gas-discharge lamp and/or the LED (column 4, line 64, to column 5, line 13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Imamura et al. in the apparatus of Toyoda and Zwald et al. to control the color of the emitted light. See the abstract of Imamura et al.

Regarding claim 15, Toyoda and Zwald et al. do not disclose a control component. Imamura et al. discloses the control component being designed to control the color point of the lamp system by controlling mixing characteristics of the optical component (column 5, lines 30-42).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Imamura et al. in the apparatus of Toyoda and Zwald et al. to control the color of the emitted light. See the abstract of Imamura et al.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toyoda in view of Zwald et al. as applied to claim 9 above, and further in view of Van Kemenade et al. (U.S. Patent 4,727,283).

Regarding claim 11, Toyoda and Zwald et al. do not disclose a low-pressure mercury vapor lamp or CAT. Van Kemenade et al. discloses the lamp as a low pressure mercury-vapor lamp (abstract) that includes the phosphor CAT for generating green light (Table III).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Van Kemenade et al. in the

apparatus of Toyoda and Zwald et al. to obtain low color temperatures. See the abstract of Van Kemenade et al.

.Response to Arguments

6. Applicant's arguments filed 5/30/07 have been fully considered but they are not persuasive. Applicant appears to argue that a claim is allowable if the prior art fails to disclose the elements of the claim when the whole inventions of the prior art are combined. This argument does not make any sense. A 35 USC 103 rejection involves combining certain teachings of the prior art to come up with the claimed invention. These teachings are easily combined as is shown in the rejections above, and the motivation to combine the references is shown in the last sentence of each rejection. Thus, the rejections stand. See MPEP 2142.

Furthermore, Applicant argues that several benefits come out of the invention of the present application. However the benefits argued are not surprising; in fact, they are expected from such a combination. Thus, no unexpected benefits were argued to rebut the prima facie case that the Applicant argues does not exist. However, the prima facie case does exist, and no unexpected benefits have been argued to rebut it. See MPEP 2142. Thus, the rejections stand.

The arguments concerning the new claims are rendered moot due to the rejections delineated above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon E. Payne whose telephone number is (571) 272-2379. The examiner can normally be reached on regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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